

RESPONSE:

The 1974 records are no longer available. The oldest record available for pole count is 1980 when Ballard had 3,062.

3. Please explain any differences in the answers to questions 1 and 2. Specifically, if Ballard has decreased the number of poles it owns, what business decisions led to such a change?

RESPONSE:

The decision was made to remove old aerial plant and replace it with buried cable. This decision resulted in the retirement of many Ballard poles. It has been Ballard's goal to bury as much of its plant as possible, especially in areas of low population where very little repair of lawns is necessary from the plowing in of the cable. If it is necessary to connect new facilities via a pole, in most cases the electric facilities have preceded the need for telephone services; therefore Ballard will connect to the electric company's pole to keep from setting duplicate poles on the customer's property.

4. What are the costs associated with maintaining these poles, i.e. maintenance, labor, replacements, etc.

RESPONSE:

Maintenance, labor and overhead, miscellaneous supplies and materials, depreciation and interest expense.

5. What other joint use agreements involving pole use is Ballard currently obligated under, if any?

RESPONSE:

Ballard also has a pole attachment agreement with Kentucky Utilities.

6. If Ballard is contractually bound by other joint use agreements, what rates are being used under those agreements?

RESPONSE:

Ballard pays Kentucky Utilities \$1.75 annually per pole and Kentucky Utilities pays Ballard \$1.75 annually per pole.

7. Have any of Ballard's other joint use agreements, if any exist, been filed with the PSC?

RESPONSE:

No.

8. Does Ballard receive a tariffed rate for CATV access to its poles?

RESPONSE:

Yes.

9. If so, what is the tariffed rate?

RESPONSE:

Ballard receives an annual rental rate per 2-user pole of \$2.00 and a rate of \$1.35 per 3-user pole.

10. How much of an expense is avoided by Ballard (in terms of maintenance, labor, replacement cost, etc.) by using poles owned by JPEC?

RESPONSE:

The average expense per pole in 2003 was \$21.47, the majority of which is depreciation expense.

11. Has Ballard properly followed the procedures for the designation of a JPEC pole as a joint use pole under the 1954 joint use agreement and its successors?

RESPONSE:

Ballard objects on the grounds that this discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Subject to this objection, Ballard believes that it has.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all joint use agreements involving utility poles, where Ballard is a party.

RESPONSE:

See attachment 1.

2. Produce all financial statements from 2001 through the present.

RESPONSE:

Ballard objects on the grounds that this discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Subject to this objection, Ballard states that its financial statements are on file with the Kentucky Public Service Commission.

3. Produce all board minutes of meetings where Ballard's contractual relationship with JPEC was discussed in 2002 through the present.

RESPONSE:

None.

4. Produce all board minutes of meeting where any change in Ballard's policies for construction or maintenance of utility poles was discussed.

RESPONSE:

Ballard objects on the grounds that this discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Subject to this objection, Ballard states there are none.

Respectfully submitted,



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**COUNSEL TO BALLARD RURAL
TELEPHONE COOPERATIVE
CORPORATION, INC.**

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing was served by mailing a copy of the same via First Class United States Mail, postage prepaid, to the following individuals this 19th day of May,

2004:

W. David Denton
Denton & Keuler, LLP
555 Jefferson Street
P.O. Box 929
Paducah, KY 42002-0929

G. Kelly Nuckols
President & CEO
Jackson Purchase Energy
Corporation
2900 Irvin Cobb Drive
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**COUNSEL TO BALLARD RURAL
TELEPHONE COOPERATIVE
CORPORATION, INC.**

GENERAL AGREEMENT FOR
JOINT USE OF WOOD POLES

This Agreement made this _____ day of April, 1955, by and between the KENTUCKY UTILITIES COMPANY, a corporation organized under the laws of the State of Kentucky, hereinafter called the "Utilities", and the Ballard Rural Telephone Co-op. Corp. Inc., a corporation organized under the laws of the State of Kentucky, hereinafter called the "Telephone Company".

PREAMBLE

The Utilities and the Telephone Company desiring to cooperate in the joint use of their respective poles, erected or to be erected, within the areas in which both parties render service in the State of Kentucky, whenever and wherever such use shall, in the estimation of both parties, be compatible with their respective needs, do hereby, in consideration of the premises and the mutual covenants herein contained, covenant and agree for themselves and their respective successors and assigns as follows:

ARTICLE I

Scope of Agreement

(a) This Agreement shall be in effect in the areas in which both of the parties render service in the State of Kentucky, and shall cover all wood poles of the parties now existing or hereafter erected in the above territory when said poles are brought under this Agreement in accordance with the procedure hereinafter provided.

(b) Each party reserves the right to exclude any of its facilities from joint use.

ARTICLE II

Explanation of Terms

For the purpose of this Agreement, the following terms shall have the following meanings:

1. A JOINT POLE is a pole jointly used by both parties.
2. A NORMAL JOINT POLE is a pole which is just tall enough to provide normal spaces, as normal space is hereinafter defined, for the respective parties and just strong enough to meet the requirements of the specifications mentioned in Article III for the attachments ordinarily placed by the parties in their respective normal spaces. Such pole for the purpose of this Agreement shall be a 35 foot class 5 wood pole as classified by the pole classification tables of the American Standards Association.
3. SPACE is the linear portion of a joint pole parallel to its axis reserved for the exclusive use of one of the parties (subject only to the exceptions provided for by the specifications mentioned in Article III which in certain instances permit the making of certain attachments by one party in the space reserved for the other party).
4. NORMAL SPACE is the following described space:
 - a. For the Utilities the uppermost 4 feet, measured from top of pole.
 - b. For the Telephone Company a space of 3 feet, at a sufficient distance below the space of the Utilities to provide at all times the minimum clearance required by the specifications mentioned in Article III and at a sufficient height above ground to provide the proper vertical clearance above ground or track rails for the lowest horizontally run line wires or cable attached in such space.

The above assignment of space is not intended to preclude the use of vertical runs or the mounting of such equipment as terminals or meters on the lower portions of the pole when mutually agreeable.

ARTICLE III

Specifications

Except as otherwise provided in Section (e) of Article VII, referring to construction temporarily exempt from the application of the specifications mentioned herein, the joint use of the poles covered by this Agreement shall at all times be in conformity with accepted modern methods such as those suggested in Edison Electric Institute Publication No. 12, a copy of which is attached hereto and marked Exhibit A, and shall at all times conform to the requirements of the National Electrical Safety Code, Fifth Edition, and subsequent revisions thereof, except where the lawful requirements of public authorities may be more stringent, in which case the latter will govern.

Modifications of, additions to, or construction practices supplementing wholly or in part the requirements of the National Electrical Safety Code, shall, when accepted in writing by both parties hereto through their agents authorized to approve such changes, likewise govern the joint use of poles.

ARTICLE IV

Establishing Joint Use of Existing Poles

(a) Whenever either party desires to reserve space for its attachments on any pole owned by the other party, either as initial space or additional space on such pole, it shall make written application therefor, specifying the location of the poles in question, the amount of space desired on each pole, and the number and character of the circuits to be placed thereon. If, in the judgment of the owner, the poles are necessary for its own sole use, or joint use under the circumstances is undesirable, the owner shall have the right to reject the application. In any event, within 10 days after the receipt of such application, the owner shall notify the applicant in writing whether the application is approved or rejected. Upon receipt of notice from the owner that the application has been approved, and after the completion of any transferring or rearranging which is required to permit the attaching of the applicant's circuits on such poles, including any necessary pole replacements, the applicant shall have the right as licensee hereunder to use such space in accordance with the terms of the application and of this Agreement.

(b) Whenever any jointly used pole or any pole about to be so used under the provision of this Agreement is insufficient in height or strength for the existing attachments and for the proposed additional attachments thereon, the owner shall promptly replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require.

(c) Each party shall place, transfer and rearrange its own attachments, place guys to sustain any unbalanced loads caused by its attachments, and perform any tree trimming or cutting incidental thereto. Each party shall at all times execute...

with the reconstruction of an existing pole line, it shall promptly notify the other party to that effect in writing (verbal notice subsequently confirmed in writing may be given in cases of emergency), stating the proposed location and character of the new poles and the character of circuits it intends to use thereon and indicating whether or not such pole facilities will be, in the estimation of the party proposing to construct the new pole facilities, susceptible of joint use. Within 10 days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does desire space thereon, the character of the circuits it desires to use and the amount of space it wishes to reserve. If such other party requests space on the proposed new poles and if the character and number of its circuits and attachments are such that the party proposing to construct the new pole facilities does not consider joint use undesirable, then it shall erect poles suitable for such joint use, subject, however, to the provisions of Section (b) of this Article. The Applicant for space on the poles shall be promptly notified in writing of the action taken on the application.

(b) In any case where the parties hereto shall conclude arrangements for the joint use of any new poles to be erected, and the party proposing to construct the new pole facilities already owns more than its proportionate share of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning less than its proportionate share of joint poles so as to work towards such a division of ownership of the joint poles. For the purpose of this agreement the proportionate share of ownership for the Utilities shall be 60% percent of the total joint poles and for the Telephone Company 40% percent of the total joint poles.

(c) Each party shall place its own attachments on the new joint poles and place guys to sustain any unbalanced loads caused by its attachments. The owner shall, however, provide the initial clearing of the right of way, and tree trimming, which shall at least meet the requirements of the other party. Each party shall execute its work promptly and in such manner as not to interfere with the service of the other party.

(d) The cost of establishing the joint use of new poles including costs incurred in the retirement of existing poles shall be borne by the parties hereto in the manner provided in Article VIII - Division of Costs.

ARTICLE VI

Right of Way for Licensee's Attachments

While the owner and licensee will cooperate as far as may be practicable in obtaining rights of way for both parties on joint poles, the owner does not warrant or assure to the licensee any right of way privileges or easements on, over or across streets, alleys and public thoroughfares, and private or publicly owned property, and if the licensee shall at any time be prevented from placing or maintaining its attachments on the owner's poles, no liability on account thereof shall attach to the owner of the poles.

ARTICLE VII

Maintenance of Poles and Attachments

(a) The owner shall maintain its joint poles in a safe and serviceable condition and in accordance with the specifications mentioned in Article III and shall replace, reinforce or repair such of the

will be given and subsequently confirmed in writing) to the licensee, specifying in such notice the time of such proposed replacement or relocation and the licensee shall at the time so specified transfer its attachments to the new or relocated joint pole.

(d) Except as otherwise provided in Section (e) of this Article, each party shall at all times maintain all of its attachments, and perform any necessary tree trimming or cutting incidental thereto, in accordance with the specifications mentioned in Article III and shall keep them in safe condition and in thorough repair. Nothing in the foregoing shall preclude the parties hereto from making any mutually agreeable arrangement for jointly contracting for or otherwise providing for maintenance trimming.

(e) Any existing joint use construction of the parties hereto which does not conform to the specifications mentioned in Article III shall be brought into conformity therewith as soon as practicable.

When such existing construction shall have been brought into conformity with said specification, it shall at all times thereafter be maintained as provided in Sections (a) and (d) of this Article.

(f) The cost of maintaining poles and attachments and of bringing existing joint use construction into conformity with said specifications shall be borne by the parties hereto in the manner provided in Article VIII --Division of Costs.

ARTICLE VIII

Division of Costs

(a) The cost of erecting new joint poles coming under this Agreement, to construct new pole lines, to make extensions to existing pole lines, or to replace existing pole, shall be borne by the parties as follows:

1. A normal joint pole, or joint pole smaller than the normal, shall be erected at the sole expense of the owner.
2. A pole larger than the normal, the extra height or strength of which is due wholly to the owner's requirements, including requirements as to keeping the owner's wires clear of trees, shall be erected at the sole expense of the owner.
3. In the case of a pole larger than the normal, the extra height or strength of which is due wholly to the licensee's requirements, including requirements as to keeping the licensee's wires clear of trees, the licensee shall pay to the owner a sum equal to the difference between the cost in place of such pole and the cost in place of a normal joint pole, the rest of the cost of erecting such pole to be borne by the owner, except in so far as otherwise provided in Section (e) of this Article.
4. In the case of a pole larger than the normal, the extra height or strength which is due to the requirements of both parties or the requirements of public authorities or of property owners, (other than requirements with regard to keeping the wires of one party only clear of trees), the difference between the cost in place of such pole and the cost in place of a normal joint pole shall be shared equally by both parties to this agreement, the rest of the cost of erecting such pole to be borne by the owner.
5. A pole erected between existing poles to provide sufficient clearance and furnish adequate strength to support the

(d) Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own expense except as otherwise expressly provided.

(e) The expense of maintaining joint poles shall be borne by the owner thereof except that the cost of replacing poles shall be borne by the parties hereto in the manner provided in Sections (a) and (c) of this Article.

(f) Where service drops of one party crossing over or under lines of the other party are attached to the other party's poles, either directly or by means of a pole extension fixture, the cost shall be borne as follows:

(1) Pole top extension fixtures shall be provided and installed at the sole expense of the party using them.

(2) Where an existing pole is replaced with a taller one to provide the necessary clearance the party owning the service drop shall pay to the party owning the pole a sum equal to the difference in cost in place between the new pole and a new pole of the same size as the replaced pole, together with a sum representing the value in place of the replaced pole plus the cost of removal less the salvage value of such pole, the owner of the pole to remove and retain such pole.

(g) When, in order to improve an existing condition considered undesirable by both parties, existing poles of one of the parties are abandoned in favor of combining lines of poles of the other party, the then value in place of the abandoned poles plus the cost of removal less the salvage value of such poles shall be shared equally by both parties to this agreement.

(h) Payments made by either party to the other under the provisions of this Article shall be based on the table of values listed in Appendix A. The values given in the table of Appendix A are intended to reflect the current cost of construction of the parties hereto. These values shall be subject to joint review by the parties to this agreement periodically at intervals not greater than five years and shall be adjusted to reflect the current cost of construction at the time of such review. Generally accepted and well established utility construction cost indices as well as the actual construction costs experienced by the parties hereto shall be used as a basis for the determination of any adjustment applicable to the values stated in the table in Appendix A.

ARTICLE IX

Procedure When Character of Circuits is Changed

When either party desires to change the character of its circuits on jointly used poles, such party shall give 60 days notice to the other party of such contemplated change and in the event that the party agrees in writing to joint use with such changed circuits, then the joint use of such poles shall be continued with such changes in construction as may be required to meet the terms of the specifications mentioned in Article III. The parties shall cooperate to determine the equitable apportionment of the net expense of such changes. In the event, however, that the other party fails within 60 days from receipt of such notice to agree in writing to such change in character of circuits, then both parties shall cooperate in accordance with the following plan:

1. The parties hereto shall determine the most practical and economical method of effectively providing for separate lines, either above or underground, and the parties shall cooperate in accordance with the following plan:

by the licensee; provided, however, that the owner shall bear an equitable share of such cost wherever the change was occasioned by the necessities of the owner and the licensee would suffer a hardship in having to assume the entire burden of the cost of re-establishing the circuits.

Unless otherwise agreed by the parties, ownership of any new line or underground facilities constructed under the foregoing provisions in a new location shall vest in the party for whose use it is constructed.

ARTICLE X

Abandonment of Jointly Used Poles

(a) If the owner desires at any time to abandon any jointly used pole, it shall give the licensee notice in writing to that effect at least 60 days prior to the date on which it intends to abandon such pole. If at the expiration of said period the owner shall have no attachments on such pole but the licensee shall not have removed all of the attachments therefrom, such pole shall thereupon become the property of the licensee, and the licensee shall save harmless the former owner of such pole from all obligation, liability, damages, cost, expenses or charges incurred thereafter, and not arising out of anything theretofore occurring, because of, or arising out of, the presence or condition of such pole or of any attachments thereon; and shall pay the owner the then value in place of the pole to the licensee but in no case an amount less than the net salvage value of the pole to the owner as provided in Appendix A attached hereto. The former owner shall further evidence transfer of title to the pole by means of a bill of sale. Credit shall be allowed for any payments which the licensee may have made under the provisions of Article VIII--Division of Cost, when the pole was originally set.

(b) The licensee may at any time abandon the use of a joint pole by giving due notice thereof in writing to the owner and by removing therefrom any and all attachments it may have thereon. The licensee shall in such case pay to the owner the full rental for said pole for the then current year.

ARTICLE XI

Rentals

(a) On or about June of each year each party, as owner, shall render to the other party as licensee a billing covering the attachments occupied by the licensee during the preceding twelve months. The billing so rendered shall be based on an annual field inventory and an inventory of the attachments shall be made by parties hereto acting in cooperation at intervals of not more than five years throughout the term of this agreement. The number of attachments to be billed during the intervening annual periods between inventories shall be the number which existed at the time of the last inventory, however the billing so rendered for the intervening years shall be adjusted on a straight line basis at the time of the next inventory, to reflect the results of such inventory.

(b) For the purpose of such billing, any pole used by the licensee for the sole purpose of attaching wires or cables thereto, either directly or by means of a pole top extension fixture, in order to provide clearance between the facilities of the two parties as distinguished from providing support for such wires or cables, shall not be considered as a joint pole.

(c) The rentals per pole due from either party to the other party...

rental rate addressed to the other party not later than 60 days before the end of such five-year period. If, within sixty days after receipt of such request by either party from the other, the parties hereto fail to agree upon a revision of the rental rate, then the revised rate per pole so to be paid shall be an amount equal to one-half of the then average annual total cost per pole of providing and maintaining the standard joint poles covered by this agreement. In case of a revision of the rental, as herein provided, the new rate shall be applicable until again revised.

ARTICLE XIII

Defaults

(a) If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after due notice thereof in writing by the other party, the party not in default may suspend the right of the party in default in so far as concerns the granting of future joint use and if such default shall continue for a period of 30 days after such suspension, the party not in default may forthwith terminate this Agreement as far as concerns the future granting of joint use.

(b) If either party shall make default in the performance of any work it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within 30 days upon presentation of bills therefor shall, at the election of the other party, constitute a default under Section (a) of this Article.

ARTICLE XIV

Existing Right of Other Parties

(a) If either of the parties hereto has, prior to the execution of this Agreement, conferred upon others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this agreement, nothing herein contained shall be construed as affecting such rights or privileges, and either party hereto shall have the right, by contract or otherwise, to continue and extend such existing rights or privileges, it being expressly understood, however, that for the purpose of this Agreement, the attachments of any such outside party, except those of a municipality or other public authority, shall be treated as attachments belonging to the grantor, and the rights, obligations, and liabilities hereunder of the grantor in respect to such attachments shall be the same as if it were the actual owner thereof.

(b) Where municipal regulations require either party to allow the use of its poles for fire alarm, police, or other like signal systems, such use shall be permitted under the terms of this Article, provided attachments of such parties are placed and maintained in accordance with the specifications mentioned in Article III.

ARTICLE XV

Liability and Damages

Whenever any liability is incurred by either or both of the parties hereto for damages for injuries to the employees or for injury to the property of either party, or for injuries to other persons or their property, arising out of the joint use of poles under this agreement, or due to the proximity of the wires and fixtures of the parties hereto attached to the jointly used poles covered by this agreement, the liability for such damages, as between the parties hereto, shall be as follows:

considered as the attachments of the party granting such permission, and the rights, obligations and liabilities of such party under this Agreement, with respect to such attachments, shall be the same as if it were the actual owner thereof.

ARTICLE XVII

Waiver of Terms or Conditions

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE XVIII

Payment of Taxes

Each party shall pay all taxes and assessments lawfully levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said joint poles shall be paid by the owner, thereof, but any tax, fee or charge levied on owner's poles solely because of their use by the licensee shall be paid by the licensee.

ARTICLE XIX

Bills and Payment for Work

Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within 60 days after the completion of such work an itemized statement of the costs and such other party shall within 60 days after such statement is presented pay to the party doing the work such other party's proportion of the cost of said work.

ARTICLE XX

Service of Notices

Whenever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or by personal delivery, to the Utilities at its office at Lexington, Kentucky, or to the Telephone Company at its office at Paducah, Kentucky, as the case may be, or to such other address as either party may from time to time designate in writing for that purpose.

ARTICLE XXI

Term of Agreement

Subject to the provisions of Article XIII, Defaults, herein, this Agreement shall remain in effect until terminated at the end of 10 years from the date hereof or thereafter upon the giving of written notice to the other party not less than two years prior to the date of termination.

ARTICLE XXII

Existing Contracts